



Ohio EPA DAPC Rulemaking - OAC Rule 3745-20-01 Asbestos Emission Control -  
Availability of Draft for Comment

Ohio EPA DAPC Rulemaking

to:

Kaushal Gupta

02/11/2013 03:16 PM

Hide Details

From: "Ohio EPA DAPC Rulemaking" <paul.braun@epa.state.oh.us>

To: Kaushal Gupta/R5/USEPA/US@EPA,

Please respond to "Ohio EPA DAPC Rulemaking" <paul.braun@epa.state.oh.us>

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Please note that the Ohio Environmental Protection Agency, Division of Air Pollution Control has reviewed Ohio Administrative Code (OAC) Rule 3745-20-01 and is recommending changes.

Ohio EPA has prepared draft rule language for two changes to the rule. Ohio EPA is changing the definition of "Facility" and removing the definition of "Residential Exempt Structure."

As part of the rule-making process, Ohio EPA is required by Section 121.39 of the Ohio Revised Code to consult with organizations that represent political subdivisions, environmental interests, business interests, and others affected by the rules. The Ohio EPA is offering your organization the opportunity to comment on these rules before the division formally proposes them.

These rules, the draft business impact analysis (BIA) Form, and supporting documentation are available electronically for review at:

<http://www.epa.state.oh.us/dapc/DAPCrules/tabid/5788/LiveTabId/112742/Default.aspx>. See the information under interested party review tab for OAC Rule 3745-20-01. We request that you provide us with any comments you may have to the changes that have been recommended by Wednesday, March 13, 2013.

Please submit your comments or suggestions to the following addresses. Persons submitting comments electronically are encouraged to follow-up with a hard copy via regular mail:

E-mail: paul.braun@epa.state.oh.us

Mailing address: Paul J. Braun  
Ohio Environmental Protection Agency, DAPC  
Lazarus Government Center  
P.O. Box 1049  
Columbus, Ohio 43216-1049  
Phone: (614) 644-3734

Thank you,  
Robert Hodanbosi, Chief  
Division of Air Pollution Control  
Ohio Environmental Protection Agency



Re: [permit] Fugitive Emissions at Landfills Subject to Asbestos NESHA

Kathleen Cox

to:

Air Permit Exchange

03/09/2012 07:44 AM

Hide Details

From: Kathleen Cox/R3/USEPA/US@EPA

To: "Air Permit Exchange" <permit@lists.epa.gov>,

Please respond to "Air Permit Exchange" <permit@lists.epa.gov>

If the landfill is subject to part 60 WWW then the emissions can't be considered fugitive...they have to be considered point sources. But if you have a landfill that is not subject to WWW, then I suppose its possible that the emissions would be considered fugitive. But I'm only guessing here.

Kathleen Cox, Associate Director  
Office of Permits and Air Toxics (3AP10)  
U. S. EPA - Region III  
1650 Arch Street  
Phila. PA 19103  
ph: (215) 814-2173  
fax: (215) 814-2134  
email: cox.kathleen@epa.gov

From: Sam Portanova/R5/USEPA/US@EPA  
To: "Air Permit Exchange" <permit@lists.epa.gov>  
Date: 03/02/2012 06:34 PM  
Subject: [permit] Fugitive Emissions at Landfills Subject to Asbestos NESHA

Does anyone know of an example of a landfill that has had to count fugitive emissions for PSD purposes because they are subject to the asbestos NESHA? The NESHA is a pre-8/7/80 standard, which is one of the triggers for counting fugitive emissions under the PSD rule.

Sam Portanova  
U.S. EPA, Region 5  
77 W. Jackson Blvd (AR-18J)  
Chicago, IL 60604  
(312) 886-3189  
portanova.sam@epa.gov

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You are currently subscribed to permit as: [Cox.Kathleen@epamail.epa.gov](mailto:Cox.Kathleen@epamail.epa.gov) .  
To unsubscribe send a blank email to: [leave-1236737-1253247.469de02d168c91aad70cf5ad859a0719@lists.epa.gov](mailto:leave-1236737-1253247.469de02d168c91aad70cf5ad859a0719@lists.epa.gov) .

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To unsubscribe send a blank email to: [leave-1238477-848158.2b22f3dd7043c2273acd65df0351099f@lists.epa.gov](mailto:leave-1238477-848158.2b22f3dd7043c2273acd65df0351099f@lists.epa.gov) .



**Fw: Nuisance\_applicable\_requirement\_revisit\_letter**

Genevieve Damico to: Charmagne Ackerman, Kaushal Gupta  
Cc: Jane Woolums

04/04/2012 01:19 PM

From: Genevieve Damico/R5/USEPA/US  
To: Charmagne Ackerman/R5/USEPA/US@EPA, Kaushal Gupta/R5/USEPA/US@EPA,  
Cc: Jane Woolums/R5/USEPA/US@EPA  
History: This message has been replied to.

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Charmagne and Kaushal,

Could one of you please draft a response to this letter? It should be pretty easy since we just need to reaffirm our position and address the comment. Let me know who will be handling this. We should be able to have a letter drafted for Jane's review by April 18, I would think. Thoughts? Concerns?

----- Forwarded by Genevieve Damico/R5/USEPA/US on 04/04/2012 01:16 PM -----

From: "Ahern, Mike" <mike.ahern@epa.state.oh.us>  
To: Genevieve Damico/R5/USEPA/US@EPA  
Cc: "Hopkins, Mike" <Mike.Hopkins@epa.state.oh.us>, "Hodanbosi, Bob" <Bob.Hodanbosi@epa.state.oh.us>, "Bergman, Drew" <drew.bergman@epa.state.oh.us>, "Hall, Andrew" <andrew.hall@epa.state.oh.us>  
Date: 04/04/2012 12:35 PM  
Subject: Nuisance\_applicable\_requirement\_revisit\_letter

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Hello Genevieve,

Please find attached a letter requesting "Clarifications concerning federal enforceability of Ohio Administrative Code (OAC) rule 3745-15-07 nuisance permit term in Ohio OAC Chapter 3745-77 Title V permits".

Please feel free to contact me directly at 614.644.3631 if you have any questions or want to discuss the request.

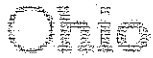
Sincerely,  
Mike Ahern



Ohio EPA, DAPC Nuisance\_applicable\_requirement\_2012\_revisit\_letter.pdf



COLUMBUS-#1623164-v1-comments\_on\_DAPC\_Standard\_Terms\_and\_Conditions.pdf



Environmental  
Protection Agency  
John R. Kasich, Governor  
Mary Taylor, Lt. Governor  
Scott J. Mallory, Director

April 4, 2012

Via e-mail  
attachment

Genevieve Damico  
U.S. EPA Region V  
77 W. Jackson Blvd.  
Chicago, IL 60604

RE: Clarifications concerning federal enforceability of Ohio Administrative Code (OAC) rule 3745-15-07 nuisance permit term in Ohio OAC Chapter 3745-77 Title V permits.

Dear Ms. Damico,

As you are aware, Ohio EPA is in the process of updating and clarifying our PTL and Title V Standard Terms and Conditions based on comments or requests for clarification that we have received over time. We have entered into this process from time-to-time as the permitting programs have evolved and as permittees have sought to understand and comply with their permit obligations. In this most recent round of changes, one of the commenters suggested we identify our Title V permit Standard Term A.21 "Air Pollution Nuisance" as a state-only enforceable permit requirement. This particular permit term has been identified as a State and Federally enforceable Standard Term (previously known as "General Terms and Conditions") since the inception of Ohio's Title V permit program.

In response<sup>1</sup> to the initial suggested change, Ohio EPA referenced a June 18, 1999 USEPA letter<sup>2</sup> from Steve Rothblatt to Bob Hodanbosi conveying U.S. EPA's position that "Title V permits which are issued with BAT, nuisance, and air toxics policy terms and conditions that are misrepresented as State-only enforceable are subject to EPA objection." The basis for USEPA's position on this issue at the time was stated earlier in the letter and indicated that pursuant to Section 504(a) of the Clean Air Act and 40 CFR 70.2, requirements contained in a State Implementation Plan are considered "applicable requirements" and that all applicable requirements must be identified as State and Federally enforceable.

In the recent follow-up comments<sup>3</sup> we received in response to our current proposed changes to the Standard Terms, the commenters who initially suggested we identify the nuisance permit term as a State-only enforceable permit requirement reiterated the basis for their request by emphasizing their view that the fact that the nuisance rule (OAC rule 3745-15-07) is part of Ohio's State Implementation Plan does not automatically make it an "applicable requirement" as defined in 40 CFR Part 70 and therefore should not be identified as federally enforceable in Ohio's Title V permits.

Based on the referenced documents and summary information provided above, Ohio EPA seeks clarification of three issues:

<sup>1</sup> See Ohio EPA Response to comments dated March 1, 2012, starting on page 9 of the document at:  
[http://wwwapp.epa.ohio.gov/eBusinessCenter/Agency/DAPC/PAG/Summary\\_of\\_082011\\_Standard\\_Terms\\_comments.pdf](http://wwwapp.epa.ohio.gov/eBusinessCenter/Agency/DAPC/PAG/Summary_of_082011_Standard_Terms_comments.pdf)

<sup>2</sup> See "Best Available Technology (BAT) Requirements in Title V ..." at:  
<http://yosemite.epa.gov/r5/r5ard.nsf/0/d0d3ee8798b7b4e8862574c8006e2156?OpenDocument&Click=>

<sup>3</sup> See attached highlighted section of comments dated March 8, 2012 from Robert Brubaker of the law firm Porter, Wright, Morris and Arthur on behalf of on behalf of numerous and diverse Porter Wright clients.

Page 2

Genevieve Damico, U.S. EPA

April 4, 2012

1. Does USEPA still interpret Section 504(a) and 40 CFR Part 70.2 to mean that all provisions in state SIPs to apply to stationary sources are federally enforceable and that as long as Ohio's nuisance rule is part of the SIP, USEPA views the rule as meeting the definition of "applicable requirement" as defined in 40 CFR Section 70.2? If so, please explain how USEPA draws this conclusion.
2. Have any decisions or policy changes occurred since 1999 that would lead USEPA to a different conclusion than the position stated in the June, 1999 letter from Steve Rothblatt to Bob Hodanbosi with respect to objecting to Proposed Title V permits that identify Ohio's nuisance provisions as State-only enforceable?

We appreciate and look forward to your attention to this matter.

Sincerely,



Michael W. Ahern  
Manager, Permit Issuance and Data Management Section  
Ohio EPA, Division of Air Pollution Control

Cc: Bob Hodanbosi, Chief  
Mike Hopkins, Assistant Chief, Permitting  
Andrew Hall, Environmental Manager, Permitting  
Drew Bergman, Legal

## General Comments.

The standard terms and conditions are tantamount to rules. Efforts to improve the practical workability of standard terms and conditions should not be misconstrued as condoning circumvention of rulemaking procedures, or to be a waiver of any right to rulemaking procedural safeguards.

The standard terms and conditions are not organized to address related topics in logical groupings rather than scattered pages apart from one another. Subheadings would improve readability. It would be helpful, for example, to have reporting requirements all in one place together, perhaps in distinct categories such as Malfunction Reporting, Quarterly Reporting, Semi-annual Reporting, and Annual Reporting.

The mandate for electronic submission of legally required applications and reports has still not been properly engaged. The issue is not whether Ohio EPA can allow electronic filing, nor is it whether Ohio EPA can prescribe the forms to be used for reports and applications filed electronically. The issue is whether Ohio EPA can exclude normal, customary, and historic methods of submitting reports and applications required by law. The power of a government agency to preclude regulated persons from relying upon the U.S. Postal Service or in-person filing of legally-required reports and applications is an extraordinary, autocratic power too great to be inferred from decades-old general language about the "form and manner" of filings. The exclusion of ordinary methods of access to government would, at a minimum, require explicit and unambiguous legislative authorization from the General Assembly. This should be a non-issue. Virtually all required air pollution control program applications and reports will be filed electronically, for efficiency and practical convenience reasons. But the elimination of the option to hand deliver or mail a legally-required report to Ohio EPA, is a step too far. It does not help that Ohio EPA would exercise discretion, case-by-case, to determine when a citizen might be able, due to a "hardship" or "emergency situation," hand deliver or mail a report instead of using electronic filing. Ohio EPA has an exaggerated and unreasonable fear of the inconvenience to regulators of preserving basic channels of communication to regulated persons, who will rarely use them in a well-functioning system of electronic communication, but who will be unreasonably deprived if conventional methods of filing required reports and applications are eradicated by administrative policy.

Another comment of broad import that has not been properly engaged is the recommendation that all relevant terms and conditions from previously-issued permits for sources covered by a Title V permit be appropriately addressed in the Title V permit so as to eliminate dual or multiple permit administration for the same requirements for the same operations of the same sources. We had suggested the following language in the Title V standard terms and conditions: "Compliance by the permittee with all terms and conditions in this permit that apply to an emissions unit shall constitute compliance with all permits to install, permits to operate, and permits to install and operate that were issued for the emission unit prior to issuance of this permit." Ohio EPA's March 1, 2012 response to comments, at p. 7, treats this as merely a request to synchronize deadlines for reporting required in prior PTI's, PTO's, or PTIO's with virtually identical reporting requirements for the same sources in the Title V permit. The comment, however, is not limited to avoiding duplication of the same reports with different filing

deadlines. Rather, it is to avoid needing to look beyond the comprehensive Title V permit for purportedly never-ending obligations in prior permits that should be entirely subsumed and properly addressed in the Title V permit if the Title V permit is done right. It is not the purpose of Title V to perpetuate multiple and chaotic air permits for the same operations of the same source, but rather to collect in a single permit all the relevant Clean Air Act regulatory requirements for the permitted facility.

The status of the Ohio nuisance rule, OAC 3745-15-07, also continues to be misunderstood in the Agency's response to comments. The question is not whether the nuisance rule is in the SIP. The question is whether it "implements relevant requirements of the [Clean Air] Act." Being provided for in the applicable implementation plan is not enough to satisfy the Title V definition of "applicable requirement" in OAC 3745-77-01(H). That definition recognizes that prior to Title V, many SIPs had provisions that were extraneous to the "relevant requirements of the Clean Air Act," and not required by the Clean Air Act to be implemented. State nuisance rules were perfect examples of such requirements. It was not the purpose of Title V to federalize such State law policies, and the definition of "applicable requirement" was carefully crafted to avoid that unwarranted and unintended result. The June 18, 1999 letter from Stephen Rothblatt to Bob Hodanbosi does not engage the crucial issue in its passing references to the nuisance rule, i.e., whether there is a relevant requirement in the Clean Air Act that requires states to implement a nuisance rule. That question is clearly answered by U.S. EPA's approval of the removal altogether of the nuisance rule from Michigan's SIP. See 63 Fed. Reg. 27494 (May 19, 1998) (stating that the rule "has no reasonable connection to the NAAQS-related air quality goals of the Act"). If there was a requirement in the Clean Air Act that state air pollution control agencies implement nuisance rules, all states would have nuisance rules in their SIPs, but that clearly is not the case. The statement on page 11 of Ohio EPA's March 1, 2012 response to comments, that "this rule must currently be considered an applicable requirement under the Title V rules," is clearly wrong. OAC Rule 3745-15-07 does not meet the definition of an "applicable requirement." Whether or not the Ohio nuisance rule is "federally enforceable," it is not a Title V "applicable requirement," and it should not be administered as such in Title V permits.

#### Title V comments.

We offer the following additional comments on the draft Standard Terms and Conditions for Title V permits.

The cover letter includes "540 days" in parentheses after "18 months" and "180 days" in parentheses after "6 months". The rule, OAC 3745-77-04(E), prescribes the timeframe for renewal applications in months, not days. The time periods expressed in days in the cover letter are not the same as the months specified in the rule. Ohio EPA should not change rule provisions in a cover letter to a permit. The parenthetical references to days should be eliminated.

In paragraph 1.a)(3) on p. 3 of 16, the wording does not correspond to the intent expressed in the response to comments. The same phrase that is used in the preceding paragraphs 1.a)(1) and (2) would provide more clarity. After "Reporting" at the end of paragraph 1.a)((3), add "for State-Only Enforceable Permit Terms and Conditions."

In paragraph 2.c)(1) at page 4 of 16, the word "submitted" in line 5 of the third subparagraph should be replaced with the word "identified." OAC 3745-77-07(A)(3)(c) requires deviations to be "identified," and does not require duplicate reporting of malfunctions that have been previously reported and that are "identified" in quarterly reports. For the same reasons, the words "reported in writing" at the end of the following subparagraph should be replaced with "identified."

In paragraph 2.c)(3) at pages 5 and 6 of 16, in the second, third and fourth subparagraphs, the word "applicable" should be inserted after "federally enforceable" and before "requirements" in order to match the Title V term "applicable requirement" defined at OAC 3745-77-01(H).

The proposed new heading for paragraph 3 on page 6 of 16, is confusing. It should read: "Reporting of Any Exceedence of a Federally Enforceable Emission Limitation or Control Requirement Resulting From Scheduled Maintenance."

The heading for paragraph 7 on page 7 of 16 should be changed from "General Requirements" to "General Information." The statements in paragraph 7 are not "requirements," but rather are in the nature of general information.

In paragraph 19 on page 13 of 16, the word "has" should be replaced with "is subject to".

Paragraph 21 on page 13 of 16, referring to the nuisance rule (OAC 3745-15-07), should either be eliminated altogether (it is a self-executing rule that need not be specifically called-out and referenced in Title V permit Standard Terms and Conditions), or it should be clearly designated as a State-only requirement, for the reasons given above.

In the last sentence in paragraph 22 on page 13 of 16, the phrase "pursuant to" should be replaced with "to the extent required by" before "OAC Chapter 3745-31". De minimis sources and sources exempt from permit to install and permit to install and operate requirements in Chapter 31 would not need to apply for and obtain a permit to install before resuming operation.

The proposed new heading for paragraph 27 on page 15 of 16 is confusing. To be more clear and also consistent with the Agency's March 1, 2012 response to comments, it should be revised to read: "Scheduled Maintenance/Malfunction Reporting For State-Only Requirements".

There is a typo in the last line in paragraph 29.b) on page 15 of 16; the word "potential" should be singular, without an "s".

We continue to object to the elimination of the option of mailing or hand delivering required reports and applications, as explained above. In addition, the proposed paragraph 30 has a process (unduly cumbersome, restrictive, and unpredictable) for "alternative hard copy



submission in lieu of the eBusiness Center," but then only provides for mailed hard copies (i.e., "postmarked"), and not hand delivered hard copies. In-person hand delivery of hard copies should not be precluded.

PTI comments.

We offer the following comments on the proposed Standard Terms and Conditions for Permits to Install.

The heading to paragraph 3 on page 4 of 11, should be changed from "General Requirements" to "General Information". The statements in this paragraph are in the nature of general information, not "requirements."

Paragraph 3.a), b), and c) on page 4 and 5 of 11 are not appropriate terms for a Permit to Install. Those provisions come from the Title V program, not Chapter 31 or the Permit to Install program.

The first sentence in paragraph 6.a) on page 6 of 11 is unnecessary and should be removed (for the same reasons Ohio EPA properly removed similar language from paragraph A.7.a) in the Title V permit Standard Terms and Conditions – see page 2 of the Agency's March 1, 2012 response to comments). In addition, the mandate in a PTI to "remain in full compliance with all applicable State laws and regulations" is unduly broad and inappropriate – all the more reason to eliminate it.

For the reasons given above, we continue to object to permit terms, like paragraph 6.a) on pages 6 and 7 of 11, that eliminate the ability of persons required by law to submit notifications and reports to Ohio EPA to do so in person or by mail as has been customary throughout the 40 year history of Ohio EPA.

In paragraph 7 on page 8 of 11, the phrase "Applicable Emission Limitations/Control Measures" should be replaced with "applicable permit terms". Sections 3704.01(F) and 3704.03(T) provide for BAT to be expressed in ways other than "Emission Limitations/Control Measures".

Paragraph 8 on page 8 of 11 should be eliminated. There is no reason to cite this rule any more than the multitude of other State and federal self-executing rules of general applicability. There is nothing in the processing of a PTI that makes OAC 3745-15-07 any more or less applicable or specific than it would otherwise be.

The following language should be added at the end of paragraph 10 on page 8 of 11: "not exempt from the requirement to obtain a Permit to Install."

In the last sentence in paragraph 11.b) on page 9 of 11, the word "party" should be replaced with the word "permittee" to be consistent with the terminology used throughout the Standard Terms and Conditions.

At the end of the last sentence in paragraph 11.d) on page 9 of 11, the following should be added: ", unless exempt from the requirement to obtain such permit."

Paragraph 12 on page 9 of 11 fails to address PTT's that qualify as Off-Permit Changes, under OAC Rule 3745-77-07(I). Such PTT's have historically been incorporated in Title V permits upon renewal, not mid-term.



{In Archive} Re: Part 61, subpart M, asbestos NESHAP question

Adan Schwartz to: permit

04/09/2001 11:47 AM

Sent by: owner-permit@stuart.r07.epa.gov

From: Adan Schwartz/R10/USEPA/US@EPA

To: permit@stuart.r07.epa.gov,

Sent by: owner-permit@stuart.r07.epa.gov

Please respond to permit@stuart.r07.epa.gov

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The reason that so much of historical MACT enforcement involves the asbestos NESHAP is that it is actually enforceable. Which is to say, when an inspector visits an asbestos demolition site and sees violations (e.g., dry, friable asbestos laying around), those violations can be documented through photographic and sampling evidence, and a fairly tight enforcement case can be put together based on that. If additional monitoring could somehow make the standard more enforceable apart from an inspection, that would be useful. I can't think off hand of how that could be done. If the basic message of monitoring requirements is to "pay attention," then you would think that this commandment is in a sense already built into a work practice standard such as this one. Also, in my (albeit limited) experience, the kinds of people who would cause a violation of the asbestos NESHAP also happen to be the kind of people who would be careful not to document the violation.

Dennis  
Myers/P2/R8/USEPA/US@  
permit@stuart.r07.epa.gov To:  
EPA cc:  
Sent by:  
Subject: Re: Part 61, subpart M, asbestos NESHAP  
owner-permit@stuart.r  
question 07.epa.gov

04/09/2001 09:11 AM  
Please respond to  
permit

Apple, Kirt

Subpart M (section 61.145) contains such requirements as adequate wetting, or if the owner chooses not to use water then a local exhaust ventilation system that exhibits no visible emissions to the outside air, leak-tight wrapping, glove bagging, etc. For material that has been removed adequate wetting and ensure that it stays wet until collected and contained; careful lowering of material to the ground, etc. On the surface at least, it would seem that some type of periodic monitoring should be required to assure that these work practices requirements and standards are being followed.  
-dennis

Apple Chapman/DC/USEPA/US@EPA@stuart.r07.epa.gov on  
04/09/2001 10:00:33 AM

Please respond to permit@stuart.r07.epa.gov

Sent by: owner-permit@stuart.r07.epa.gov

To: permit@stuart.r07.epa.gov  
cc:

Subject: Re: Part 61, subpart M, asbestos NESHAP  
question

Kirt,

I was limiting my response to the fact that no emission monitoring would be required for this standard but you make an excellent point about whether subpart M contains any reporting to ensure that the work practice standards are in fact conducted. My recollection (I have read parts of subpart M but it's been a while) is that all abatement activities are required to be overseen by a trained and certified professional and it is the job of that person to assure that the work practice standards are in fact conducted

appropriately. Thus, there is no reporting requirement (beyond the initial notification of abatement requirement). I recently learned (during the Toxics workshop) that the majority of our MACT enforcement activities stem from asbestos abatement violations so perhaps we should consider including an additional reporting requirement into our Title V permits to assure that the necessary work practice standards are being complied with.

Kirt  
Cox/RTP/USEPA/US@EPA To:  
permit@stuart.r07.epa.gov  
Sent by: cc:  
owner-permit@stuart.r07.epa.gov,  
owner-permit@stuart.r  
permit@stuart.r07.epa.gov  
07.epa.gov  
Subject: Re: Part 61,  
subpart M, asbestos

NESHAP question

04/09/2001 11:47 AM  
Please respond to  
permit

Apple,

Your assessment of the standard and how it is implemented is correct, and this does mean that there is no emissions rate for which the source would test. However, in that subpart M imposes a requirement that the source conduct certain work practices designed to reduce emissions of asbestos, would it not be appropriate for the Title V permit to include some form of reporting requirement to help assure that the work practices were in fact conducted? It could be that the reporting required by subpart M is sufficient to do this, in which case the permit could simply indicate that this can be considered as meeting the Title V requirement for monitoring.

This point may be more of a matter of semantics than substance, in that

your observation may have been limited to the fact that no emissions monitoring would be required for this standard. I'm focusing on this particular issue just to confirm that some form of monitoring is appropriate for all applicable requirements, including those not involving an express emissions limit.

Kirt

Apple

Chapman/DC/USEPA/US@E To:  
permit@stuart.r07.epa.gov  
PA cc:

Sent by:  
Subject: Re: Part 61,  
subpart M, asbestos  
owner-permit@stuart.r  
NESHAP question

07.epa.gov

04/09/01 10:41 AM

Please respond to

permit

Dennis,

The asbestos NESHAP does not contain a quantitative emission standard or a monitoring requirement to measure such an emission standard as that term is commonly understood. Asbestos emissions are essentially invisible and unpredictable during a demolition or renovation activity. Actions such as the breaking and pulling of building materials are sporadic and release fibers in a way that is impossible to predict and therefore difficult (if not impossible) to monitor in any meaningful way. Hence, EPA promulgated a work practice standard in lieu of an emission

standard for this NESHAP (see CAA § 112(h)). EPA determined that there is no feasible way to monitor asbestos emissions resulting from a demolition or renovation project, and therefore, EPA employs a work practice standard and also uses visible emissions as a surrogate for asbestos. Thus, no periodic monitoring is necessary to assure compliance with the asbestos NESHAP.

Apple Chapman  
U.S. EPA  
Office of General Counsel  
Mail Code 2344 A  
For Fed Ex or UPS only: Room # 7340  
1200 Pennsylvania Ave., NW  
Washington DC 20004  
Phone: 202-564-5666  
Fax: 202-564-5603

Dennis

Myers/P2/R8/USEPA/US@ To:  
permit@stuart.r07.epa.gov  
EPA cc:

Sent by:

Subject: Part 61,  
subpart M, asbestos NESHAP  
owner-permit@stuart.r  
question

07.epa.gov

04/09/2001 09:41 AM

Please respond to

permit

I am working on a part 71 permit for a source on tribal land. The source has identified the asbestos NESHAP as applying during times of demolition and/or renovation at their facility.

My question is whether anyone has either included part 61, subpart M, in a part 71 permit, or if anyone has reviewed a part 70

permit that contained  
part 61 subpart M as an applicable requirement? If  
so, what kind of  
periodic monitoring was included to demonstrate  
compliance with the work  
practice standards and no visible emissions  
requirements?  
-thanks





**{In Archive} Re: Part 61, subpart M, asbestos NESHAP question**

Tim Williamson to: permit

04/09/2001 02:31 PM

Sent by: owner-permit@stuart.r07.epa.gov

From: Tim Williamson/R1/USEPA/US@EPA

To: permit@stuart.r07.epa.gov,

Sent by: owner-permit@stuart.r07.epa.gov

Please respond to permit@stuart.r07.epa.gov

Archive: This message is being viewed in an archive.

This has been a useful exchange about how one might write the demo/reno NESHAP into a permit, but I have a threshold question about whether the NESHAP must be in the permit in the first place. My quick read of subpart M and my very dated experience enforcing it suggest to me that the standard does not apply unless "demolition or renovation activity" is actually happening or is about to happen -- otherwise most any structure more than 25 years old is an affected facility waiting to happen.

Is it the case that this facility is in the midst of a demo/reno project or has one imminently planned? From your original question, I could not tell whether the facility was saying that the demo/reno standard might apply at some point in the future or that they have a demo/reno project actually in the works. If it's the former, I'm not sure the demo/reno standard is an applicable requirement that must be in the permit.

Tim Williamson  
Office of Regional Counsel  
EPA New England  
617-918-1099

Adan  
Schwartz/R10/USEPA/US To:  
permit@stuart.r07.epa.gov  
@EPA cc:  
Sent by:  
Subject: Re: Part 61, subpart  
owner-permit@stuart.r M,  
asbestos NESHAP question  
07.epa.gov

04/09/01 12:45 PM  
Please respond to

permit

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Dennis

Myers/P2/R8/USEPA/US@ To:  
permit@stuart.r07.epa.gov EPA cc:

Sent by:  
Subject: Re: Part 61,  
subpart M, asbestos NESHAP  
owner-permit@stuart.r  
question

07.epa.gov

04/09/2001 09:11 AM

Please respond to

permit

Apple, Kirt

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-dennis

Apple Chapman/DC/USEPA/US@EPA@stuart.r07.epa.gov on  
04/09/2001 10:00:33 AM

Please respond to permit@stuart.r07.epa.gov

Sent by: owner-permit@stuart.r07.epa.gov

To: permit@stuart.r07.epa.gov  
cc:

Subject: Re: Part 61, subpart M, asbestos NESHAP  
question

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I was limiting my response to the fact that no emission monitoring would be required for this standard but you make an excellent point about whether subpart M contains any reporting to ensure that the work practice standards are in fact conducted. My recollection (I have read parts of subpart M but it's been a while) is that all abatement activities are required to be overseen by a trained and certified professional and it is the job of that

person to assure that the work practice standards are in fact conducted appropriately. Thus, there is no reporting requirement (beyond the initial notification of abatement requirement). I recently learned (during the Toxics workshop) that the majority of our MACT enforcement activities stem from asbestos abatement violations so perhaps we should consider including an additional reporting requirement into our Title V permits to assure that the necessary work practice standards are being complied with.

Kirt  
Cox/RTP/USEPA/US@EPA  
permit@stuart.r07.epa.gov  
Sent by: ,  
owner-permit@stuart.r07.epa.gov,  
owner-permit@stuart.r  
permit@stuart.r07.epa.gov  
07.epa.gov  
Subject: Re: Part 61,  
subpart M, asbestos

To:  
cc:

NESHAP question

04/09/2001 11:47 AM  
Please respond to  
permit

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Your assessment of the standard and how it is implemented is correct, and this does mean that there is no emissions rate for which the source would test. However, in that subpart M imposes a requirement that the source conduct certain work practices designed to reduce emissions of asbestos, would it not be appropriate for the Title V permit to include some form of reporting requirement to help assure that the work practices were in fact conducted? It could be that the reporting required by subpart M is sufficient to do this, in which case the permit could simply indicate that this can be considered as meeting the Title V requirement for monitoring.

This point may be more of a matter of semantics than substance, in that your observation may have been limited to the fact that no emissions monitoring would be required for this standard. I'm focusing on this particular issue just to confirm that some form of monitoring is appropriate for all applicable requirements, including those not involving an express emissions limit.

Kirt

Apple

Chapman/DC/USEPA/US@E To:  
permit@stuart.r07.epa.gov  
PA cc:

Sent by:

Subject: Re: Part 61,  
subpart M, asbestos  
owner-permit@stuart.r  
NESHAP question

07.epa.gov

04/09/01 10:41 AM

Please respond to

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Hence, EPA promulgated a work practice standard in lieu of an emission standard for this NESHAP (see CAA § 112(h)). EPA determined that there is no feasible way to monitor asbestos emissions resulting from a demolition or renovation project, and therefore, EPA employs a work practice standard and also uses visible emissions as a surrogate for asbestos. Thus, no periodic monitoring is necessary to assure compliance with the asbestos NESHAP.

Apple Chapman  
U.S. EPA  
Office of General Counsel  
Mail Code 2344 A  
For Fed Ex or UPS only: Room # 7340  
1200 Pennsylvania Ave., NW  
Washington DC 20004  
Phone: 202-564-5666  
Fax: 202-564-5603

Dennis

Myers/P2/R8/USEPA/US@ To:  
permit@stuart.r07.epa.gov  
EPA cc:

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07.epa.gov

04/09/2001 09:41 AM

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compliance with the work  
practice standards and no visible emissions  
requirements?  
-thanks



{In Archive} Re: Part 61, subpart M, asbestos NESHAP question

Dennis Myers to: permit

04/09/2001 04:04 PM

Sent by: owner-permit@stuart.r07.epa.gov

From: Dennis Myers/P2/R8/USEPA/US@EPA

To: permit@stuart.r07.epa.gov,

Sent by: owner-permit@stuart.r07.epa.gov

Please respond to permit@stuart.r07.epa.gov

Archive: This message is being viewed in an archive.

Let me try responding again - for some reason, only the first sentence came through last time.

Tim,

I agree with your statement. The source states in their application that subpart M applies and states that "passive applicability until work done triggers the regulation when certain types of construction occurs or ACM is disturbed". The source further states in their application that any removal work planned that could disturb ACM will be done by a certified asbestos contractor with proper notifications made and records maintained.

I plan to word the part 71 permit something like the following: When conducting demolition and/or renovation activities at this facility, the applicant is subject to the requirements of...

I still need to figure out if periodic monitoring will also need to be included.  
-dennis

Tim Williamson/R1/USEPA/US@EPA@stuart.r07.epa.gov on  
04/09/2001 01:28:18 PM

Please respond to permit@stuart.r07.epa.gov

Sent by: owner-permit@stuart.r07.epa.gov

To: permit@stuart.r07.epa.gov  
cc:

Subject: Re: Part 61, subpart M, asbestos NESHAP question



This has been a useful exchange about how one might write the demo/reno NESHAP into a permit, but I have a threshold question about whether the NESHAP must be in the permit in the first place. My quick read of subpart M and my very dated experience enforcing it suggest to me that the standard does not apply unless "demolition or renovation activity" is actually happening or is about to happen -- otherwise most any structure more than 25 years old is an affected facility waiting to happen.

Is it the case that this facility is in the midst of a demo/reno project or has one imminently planned? From your original question, I could not tell whether the facility was saying that the demo/reno standard might apply at some point in the future or that they have a demo/reno project actually in the works. If it's the former, I'm not sure the demo/reno standard is an applicable requirement that must be in the permit.

Tim Williamson  
Office of Regional Counsel  
EPA New England  
617-918-1099

Adan  
Schwartz/R10/USEPA/US To:  
permit@stuart.r07.epa.gov  
@EPA cc:  
Sent by:  
Subject: Re: Part 61,  
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PA

Sent by:  
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Mail Code 2344 A  
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Washington DC 20004  
Phone: 202-564-5666  
Fax: 202-564-5603

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**{In Archive} Asbestos NESHAP Program**

Rochelle Marceillars to: christmr, epa2471, dfodor1958, fprofit,  
jackie.deneen, katie.koelfgen, weixl,  
davism1, paul.koval, pkurikes,

09/27/2001 04:36 PM

From: Rochelle Marceillars/R5/USEPA/US  
To: christmr@state.mi.us, epa2471@epa.state.il.us, dfodor1958@aol.com,  
fprofit@dem.state.in.us, jackie.deneen@pca.state.mn.us, katie.koelfgen@pca.state.mn.us,  
weixl@dnr.state.wi.us, davism1@dnr.state.wi.us, paul.koval@epa.state.oh.us,  
Archive: This message is being viewed in an archive.

Beginning October 1, 2001, I will no longer be Region 5's Asbestos NESHAP Coordinator. The program lead have been reassigned to the State Specialists (Lucille Penson (IL), Jean Bauer (IN), Renee Honore (MI), Lisa Holscher (MN/OH) and Stephanie Valentine (WI). Attached is a list for the asbestos NESHAP program contacts, both technical and program. Please forward all calls, complaints, inquiries, etc. to the appropriate State Specialist who handles that particular State. I have been tasked to lead in other areas within the Air Enforcement Branch such as training for Region 5 State/local agencies and Regional staff, State penalty policy program, compliance assistance and CEM database development, tracker and maintenance. I will also be working on the Air Program's SEP workgroup and will continue to work in and represent ARD in the EJ program. Needless to say, I will still be quite busy, but this gives me an opportunity to work in other areas of importance to the branch. I would truly like to express that it has definitely been a pleasure working with such professional, very hard working, assertive individuals like each of you who work in the asbestos program. I applaud your continuing efforts, individually and nationally as a group, to ensure compliance with all the asbestos regulations throughout the nation. Keep up the good work and take care.



R5 Asbestos Program and Technical Contacts

## Region 5 Asbestos NESHAP Program Contacts

### Illinois

Lucille Penson, State Specialist  
Air Enforcement and Compliance Assurance Section (IL/IN)  
Telephone Number: (312) 353-5139  
Fax Number: (312) 353-8289  
Email address: [penson.lucille@epa.gov](mailto:penson.lucille@epa.gov)

### Indiana

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Air Enforcement and Compliance Assurance Section (IL/IN)  
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Fax Number: (312) 353-8289  
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### Michigan and Wayne County

Renee Honore, State Specialist  
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Telephone Number: (312) 886-0749  
Fax Number: (312) 353-8289  
Email address: [honore.renee@epa.gov](mailto:honore.renee@epa.gov)

### Minnesota and Ohio

Lisa Holscher, State Specialist  
Air Enforcement and Compliance Assurance Section (MN/OH)  
Telephone Number: (312) 886-6818  
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Email address: [holscher.lisa@epa.gov](mailto:holscher.lisa@epa.gov)

### Wisconsin

Stephanie Valentine, State Specialist  
Air Enforcement and Compliance Assurance Section (MI/WI)  
Telephone Number: (312) 886-6787  
Fax Number: (312) 353-8289  
Email address: [valentine.stephaniea@epa.gov](mailto:valentine.stephaniea@epa.gov)



**Technical Contacts for Asbestos NESHAP**Illinois/Indiana

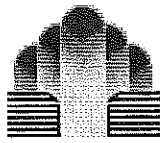
Linda Hamsing, Environmental Engineer  
Air Enforcement and Compliance Assurance Section (IL/IN)  
Telephone Number: (312) 886-6810  
Fax Number: (312) 353-8289  
Email address: [hamsing.linda@epa.gov](mailto:hamsing.linda@epa.gov)

Michigan/Wayne County/Wisconsin

Tanya Boomer, Environmental Engineer  
Air Enforcement and Compliance Assurance Section (MI/WT)  
Telephone Number: (312) 353-4145  
Fax Number: (312) 353-8289  
Email address: [boomer.tanya@epa.gov](mailto:boomer.tanya@epa.gov)

Minnesota/Ohio

Jeff Bratko, Environmental Engineer  
Air Enforcement and Compliance Assurance Section (MN/OH)  
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Email address: [bratko.jeff@epa.gov](mailto:bratko.jeff@epa.gov)



{In Archive} Post Dispatch story on asbestos says major EPA announcement coming

Janet Harris, Richard Cox, Genevieve  
Pamela Blakley to: Damico, Kaushal Gupta, Cecilia Mijares,  
Sam Portanova, Dennis Wychocki, Isidra

02/19/2003 02:35 PM

From: Pamela Blakley/R5/USEPA/US  
To: Janet Harris/R5/USEPA/US@EPA, Richard Cox/R5/USEPA/US@EPA, Genevieve  
Damico/R5/USEPA/US@EPA, Kaushal Gupta/R5/USEPA/US@EPA, Cecilia  
Mijares/R5/USEPA/US@EPA, Sam Portanova/R5/USEPA/US@EPA, Dennis  
Archive: This message is being viewed in an archive.

----- Forwarded by Pamela Blakley/R5/USEPA/US on 02/19/03 02:35 PM -----



Cheryl Newton  
02/19/03 01:21 PM

To: Steve Rothblatt, George Czerniak, Carlton Nash, Robert Miller, Jay B...  
Subject: Post Dispatch story on asbestos says major EPA announcement coming

----- Forwarded by Cheryl Newton/R5/USEPA/US on 02/19/03 01:20 PM -----



Elissa Speizman  
02/19/03 10:41 AM

To: Thomas Skinner, mathur.bharat, ullrich.david, Cheryl Newton, muno....  
Subject: Post Dispatch story on asbestos says major EPA announcement coming

I've asked HQ press office if they have any info they can share with regions on the major announcement. I'd heard a few weeks ago that something would go out on the results of the study of Vermont homes with Zonolite insulation.

[p://www.stltoday.com/stltoday/news/stories.nsf/News/6113261086B9EFA586256CD100214FD](http://www.stltoday.com/stltoday/news/stories.nsf/News/6113261086B9EFA586256CD100214FD?OpenDocument&Headline=EPA+will+relent,+warn+public+about+asbestos+in+insulation)  
C?OpenDocument&Headline=EPA+will+relent,+warn+public+about+asbestos+in+insulation

St. Louis Post Dispatch

EPA will relent, warn public about asbestos in insulation  
By ANDREW SCHNEIDER  
02/17/2003

Amid continued debate, the federal government appears ready to warn millions of home and business owners about the dangers of potentially lethal asbestos-contaminated insulation in their walls and attics.

After almost two years of first ignoring and then playing down the risk from vermiculite insulation, called Zonolite, the Environmental Protection Agency said it would launch a nationwide consumer information program.

"This will be a major announcement," David Cohen, a senior EPA spokesman, said. "We're planning to go all out just as we did for radon and asbestos in schools and other major toxic

problems.

"It looks like this will go beyond just having the warning prominently displayed on EPA's Web site. There could be news conferences, press releases and pamphlets distributed in hardware and home improvement stores."

Cohen said the announcement could be within three or four weeks. But he's not sure what it will say beyond warning people not to touch Zonolite insulation in their homes for fear of sending asbestos fibers into the air.

"The science needs to be done to prove whether or not this product is dangerous, but I'm sure the message we'll convey to the public will be like the card on a hotel room door - 'Do Not Disturb,'" Cohen said.

A heated argument continues at EPA headquarters, with some in the agency's science and program sections demanding that additional testing be undertaken.

In December, the Post-Dispatch reported that the EPA was ready to warn the public three times last year as part of a declaration of a public health emergency in the Montana town of Libby. Hundreds of miners and their family members have been sickened or killed by asbestos in the vermiculite ore that came from a W.R. Grace mine. The White House Office of Management and Budget convinced the agency not to make the emergency declaration, and the warning to an estimated 35 million homeowners never came about.

#### Congress voices concerns

The EPA's agreement to make the public announcement came after an increase in pressure from members of Congress.

On Feb. 6, Sen. Patty Murray, D-Wash., made a speech on the Senate floor denouncing EPA lethargy in warning the public of the hazards from the insulation made from asbestos-tainted vermiculite. Murray also faulted the National Institute of Occupational Safety and Health for failing to tell workers the even greater hazards they may face renovating, wiring or stringing telephone or television cables in attics.

Murray told her Senate colleagues that the reason that she's so concerned about the cancer-causing vermiculite is that residents in her state and every other state are being exposed to asbestos from Zonolite. The EPA and other federal agencies estimate that as many as 35 million homes and businesses contain the material.

"I am deeply concerned that most people with Zonolite in their homes are completely unaware of this problem," Murray said. "I am afraid most will not learn of it until they have already been exposed to dangerous levels of asbestos."

Dr. Gregory Wagner, director of the Division of Respiratory Disease Studies for the National

Institute of Occupational Safety and Health, said his agency didn't release its warning to workers because they were waiting for the result of the EPA's studies.

"We had expected it was going to come in first last summer, then last fall and then this winter," Wagner said. "Because of the delays, we're reconsidering the decision to wait further in putting out our fact sheet and are likely to move ahead at this point."

Wagner said the notice should be released within the next few weeks.

The report Wagner was waiting for was a study by Versar, an EPA contractor that has been doing studies on Zonolite since 1985.

The recent study was begun in 2001 and ended up with the testing of six homes in Vermont that had Zonolite in their attics. Neither Wagner nor any of the EPA's emergency response or asbestos teams in its regional offices have seen the report. However, the agency did give a copy to W.R. Grace.

The study shows that low levels of asbestos were found in the insulation lying between the rafters. But the levels of cancer-causing fibers sent into the air when the insulation was even gently disturbed was unexpectedly high, to the surprise of many experienced in dealing with asbestos.

Democrats pressure the EPA, budget office

A week ago, Murray and 10 other congressional Democrats demanded in a letter to EPA Administrator Christie Whitman and Mitch Daniels, director of the White House Office of Management and Budget, that they explain why the public is not being warned of the hazard from Zonolite.

"It is the height of irresponsibility for President Bush to keep quiet when millions of families are at real risk," said Rep. Jan Schakowsky of Illinois, the ranking Democrat on the House Commerce, Trade and Consumer Protection Subcommittee.

"In Illinois and across the country, families are facing health hazards at home and at work from asbestos exposure. The American people deserve to have all the information they can to keep their families safe," said the Chicago-area lawmaker.

Rep. Jerrold Nadler of New York added: "It is completely outrageous that the agency charged with protecting the public health keeps important information on this behind a veil of secrecy, from coast to coast." The New York City Democrat has been battling the EPA over what he sees as a cover-up of contaminants released from the World Trade Center collapse.

"For EPA now to decide that millions of people have no right to know what's contained in this material, it is malfeasance of the highest degree," Nadler said.

Whitman says more study is needed

According to EPA Administrator Whitman, more study is needed before the notification is made.

"We need to have the scientific data to go out with something," Whitman told reporter Steve Wilson of WXYZ-TV in Detroit earlier this month.

"We are doing aggressive scientific additional studies to see what it takes, where the threat matrix is, and how far we need to go in warning people about what they do," said Whitman, who added, "We don't know it to be a danger."

The White House Office of Management and Budget said it didn't get involved with any plans for a public notification because the EPA told the budget office that "it lacked the scientific proof" of the health dangers from Zonolite.

Marcus Peacock, the budget office's associate director for natural resources, said Thursday that the EPA never "really raised" the issue of notifying the public outside of Libby.

"There was no scientific evidence that this was really an emergency," Peacock said, adding that the EPA told him that the amount of asbestos in the insulation "was so small that it wasn't a significant problem."

"The folks in EPA ... didn't even know how many homes around the country were at risk," Peacock said. "EPA never recommended that they go ahead with an emergency notification, and so we never rejected that."

Peacock said he has heard nothing about the EPA's new plans to notify the public.

"We'll certainly review it and take a look at it. But we certainly would want to see the scientific proof," Peacock said.

EPA's Libby team has no doubt

Those in the EPA involved with protecting the people in Libby and with the extensive research that has been done on the tremolite asbestos which contaminates the vermiculite, challenge their headquarters' assertion that there is no scientific proof of the danger of Zonolite.

Dr. Aubrey Miller is a toxicologist and the senior medical officer for EPA Region 8 and has been part of the team assessing dangers in Libby since the EPA arrived in November 1999.

Every time he sees Joelle, his 4-year-old daughter, he says he thinks of children throughout the country who could be exposed to Zonolite.

"It is unconscionable that kids could be routinely playing with this stuff up in enclosed

nonventilated attic spaces, where the airborne asbestos concentrations can be extremely high and stay that way for many hours after disturbance," Miller said. "We need to be especially concerned about kids due to the long time they will have to manifest disease from their early childhood exposures."

The physician said he doesn't know why EPA headquarters is demanding more studies.

"Tests that have been done for over 20 years by everyone from W.R. Grace, to the Canadian military to EPA itself have shown that Zonolite insulation rapidly releases dangerously high levels of airborne asbestos fibers with the most minor disruption," Miller said.

#### Debating the Versar study

Some at the EPA in Washington say the extensive testing done by Versar didn't prove the danger, even though the amount of fibers released when the insulation was moved was higher than the federal safety standard for workers. Many of those in headquarters choose to ignore those high levels in the air and instead point to the testing of the bulk insulation, which showed levels of asbestos at or below the 1 percent level, which is the EPA's definition for asbestos-containing material.

Miller and others say the danger must be measured by what becomes airborne.

"The fact that the testing of the bulk samples of the insulation as it lays undisturbed in the attic show low levels or no level of asbestos cannot and should not be construed as not being dangerous," Miller said. "The real test of danger from any asbestos-containing material comes from samples of air collected above the material in the zone where people will be breathing."

Even when Versar wet the insulation in the Vermont testing and took air samples, the numbers of fibers was still above levels the government considers safe for workers.

"These airborne fibers are very hazardous," Miller said. "People must be warned about this."

All sides in the dispute agree that the risk from Zonolite is minimal if the attic is well-sealed, if the material is not leaking into lower floors through cracks and if no one ever comes in contact with the Zonolite or its dust.

"But for those people who go up to their attic more than once a year or their kids are playing up there, or people who are working up there, for them, this is a serious hazard," Miller said.

Chris Weis, another EPA toxicologist who has done extensive studies on Zonolite, added: "The bottom line is that this material is very poisonous when it is inhaled."

"EPA, Grace and many others have shown that disturbing asbestos-contaminated vermiculite causes exposures above short- and long-term federal limits," said Weis. "Residents and workers who are repeatedly exposed to this material are at particularly high risk of lung disease."

To contact Andrew Schneider:

E-mail: [aschneider@post-dispatch.com](mailto:aschneider@post-dispatch.com)

Phone: 314-340-8101

{In Archive} Re: Landfill with Asbestos Containing Materials in WI 

Danny Marcus to: Ramon Mendoza  
Bcc: Kaushal Gupta

12/28/2006 09:21 AM

From: Danny Marcus/R5/USEPA/US  
To: Ramon Mendoza/R5/USEPA/US@EPA,  
Bcc: Kaushal Gupta/R5/USEPA/US  
Archive: This message is being viewed in an archive.


Absolutely.

Ramon Mendoza/R5/USEPA/US



Ramon  
Mendoza/R5/USEPA/US  
12/28/2006 09:16 AM

To: Danny Marcus/R5/USEPA/US@EPA  
cc

Subject: Re: Landfill with Asbestos Containing Materials in WI 

Thanks Danny, This is just what I needed. Can I use you as a contact person for permitting questions from the Tribes in Region 5?

Sincerely,

Ramon C. Mendoza, Environmental Engineer  
Waste Management Branch (DW-8J)  
Waste, Pesticides, and Toxics Division  
USEPA Region 5  
77 W. Jackson Blvd. Chicago, IL. 60604  
Tel: 312-886-4314, fax: 312-353-4788  
mendoza.ramon@epa.gov

Danny Marcus/R5/USEPA/US

Danny Marcus/R5/USEPA/US

12/27/2006 05:28 PM

To: Ramon Mendoza/R5/USEPA/US@EPA  
cc

Subject: Landfill with Asbestos Containing Materials in WI

Ramon,

Here is some general information for a facility that will be constructing a landfill with Asbestos Containing Materials.

- They will need a Title V operating permit in accordance with 40 CFR part 71;  
[http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=41d8451d55b9543de2851ade0d6af083&tpl=/ecfrbrowse/Title40/40cfr71\\_main\\_02.tpl](http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=41d8451d55b9543de2851ade0d6af083&tpl=/ecfrbrowse/Title40/40cfr71_main_02.tpl)



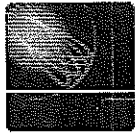
- They will most likely have to comply with the terms in Part 61 Subpart M, 40 CFR 61.154

- They will need a New Source Review Construction permit if emissions due to the construction of the facility will exceed significant thresholds. See 40 CFR 52.21;

<http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=77492de08166511f01ae3ba3b372e23f&rgn=div8&view=text&node=40:3.0.1.1.1.1.1.19&idno=40>

Let me know if you have any questions. Thanks.

Danny Marcus  
Environmental Engineer  
U.S. Environmental Protection Agency  
Region 5 - Air and Radiation Division  
Phone: (312) 353 - 8781  
Fax: (312) 886 - 5824



{In Archive} 'Secret' was deadly for Montana town saturated in asbestos, prosecutors say (LA Times)

William Tong to:

02/25/2009 09:07 AM

Bcc: Kaushal Gupta

From: William Tong/R5/USEPA/US

To:

Bcc: Kaushal Gupta/R5/USEPA/US

Archive: This message is being viewed in an archive.

<http://www.latimes.com/news/nationworld/nation/la-na-montana-asbestos-trial24-2009feb24,0,5879847.story>

*From the Los Angeles Times*

## 'Secret' was deadly for Montana town saturated in asbestos, prosecutors say

**Trial begins in the case of W.R. Grace company, accused of knowingly exposing Libby, Montana, residents to asbestos. About 1,200 have sickened or died. The defense says there was no conspiracy.**

By Kim Murphy  
February 24, 2009

Reporting from Missoula, Mont. — For 27 years, W.R. Grace & Co. operated a vermiculite mine in Libby, Mont., producing bags of puffy white granules that were marketed all over the U.S., perfect for insulating attics and aerating gardens and potting soil.

The trouble was, the vermiculite contained small quantities of asbestos, a cancer-causing fiber that could, even in tiny quantities, fatally lodge itself in the lungs.

The material posed a risk not only to mine workers, but also to those who touched the workers' clothing or used the high school running track and community ice-skating rink, both built with asbestos-laden mine tailings donated by the company.

That was the Maryland-based chemical company's "secret," federal prosecutors alleged Monday as W.R. Grace and five of its former executives went on trial here in a case that environmental law experts describe as the most significant criminal prosecution the U.S. has ever filed against an alleged corporate polluter.

"There's never been a prosecution in the United States where so many people have been sickened or killed as a result of environmental crime," said David Uhlmann, formerly the Justice Department's top environmental-crimes prosecutor and now a professor at the University of Michigan Law School.

Raw vermiculite from Libby was processed at sites around the country, including several California locations -- Newark, Santa Ana, Glendale and Thermal among them. Many of the sites were subsequently found to be contaminated and have become part of the massive wave of lawsuits that forced W.R. Grace into bankruptcy reorganization in 2001. The company last year announced plans to settle the claims.

An estimated 1,200 Libby residents died or developed asbestos-related diseases from the asbestos fibers that permeated nearly every corner of the small town at the base of the Cabinet Mountains, Justice Department lawyers say.

Prosecutors say W.R. Grace officials were secretly armed with studies that documented the dangers but insisted for decades that their product presented no generalized health hazard.

By 1976, the indictment says, the company had data that showed that 63% of all its employees who had worked 10 years or more in Libby had lung abnormalities. Six years later, a Harvard University researcher concluded that an "excessive number" of former W.R. Grace employees had died of lung disease. But his findings were kept under wraps.

"This case is about a company that mined and manufactured a hazardous product, and individual executives that chose profits at the expense of people's health, and chose avoiding liability over disclosing the health hazard to the government," Assistant U.S. Atty. Kris McLean told a U.S. District Court jury in opening statements Monday.

The case is a milestone for residents of the town that for decades survived on the mine's earnings but which now finds itself stricken with its legacy. It is not uncommon to see men and women with oxygen bottles at the grocery store; most families have someone with lung cancer, mesothelioma, asbestosis or sores on their lungs.

"I guess people are just looking for somebody to be accountable for it," said David Strand, a Libby businessman who has been diagnosed with asbestosis, along with his wife. His father-in-law died of the disease in the 1980s.

"He lived with us the last few years of his life, and you have never seen a more horrible death," Strand said in a telephone interview.

Yet in defense opening statements Monday, lawyers presented the former W.R. Grace employees on trial -- many of them now in their 70s, who had raised families and coached Little League teams in Libby -- as blue collar managers with little experience in toxics. They say they too were alarmed by the growing evidence of the health threat posed by asbestos, and eager to do whatever they could to protect their employees, neighbors and families.

The company spent millions of dollars to modernize operations and lower workers' exposure to asbestos to levels far below federal health standards, defense lawyers said. Then, when the company's health surveys suggested that workers were still falling ill, Grace turned over the

disturbing new findings and warned the government that its own standards might need tightening, they said.

"There's no question that the miners and their families suffered tragic losses as a consequence of the operation of this mine," attorney David M. Bernick, representing W.R. Grace, told the jury. "But this case requires you to focus on what is it that counts."

The defense is attacking the charge that W.R. Grace employees conspired to boost profits with the full knowledge that Libby townspeople would be harmed years later by the lingering asbestos. Bernick said the government is overreaching by prosecuting the executives for pollution that occurred decades before the 1990 law making such pollution a criminal act.

The five former executives face up to 15 years in prison and fines of several million dollars if convicted on various counts of conspiracy and violations of the Clean Air Act. Grace's former legal counsel is being tried separately. The former general manager of the Libby mine, Alan Stringer, originally a seventh defendant, died of cancer. The six remaining employees have pleaded not guilty.

kim.murphy@latimes.com

{In Archive} Fw: Question about Ohio SIP (nuisance provisions)

Kaushal Gupta to: John Summerhays

Cc: Richard Angelbeck

08/28/2008 05:00 PM

From: Kaushal Gupta/R5/USEPA/US

To: John Summerhays/R5/USEPA/US@EPA,

Cc: Richard Angelbeck/R5/USEPA/US@EPA

Archive: This message is being viewed in an archive.

John,

Do you happen to know whether nuisance provisions were removed from Ohio's SIP?

Thanks,

Kaushal

----- Forwarded by Kaushal Gupta/R5/USEPA/US on 08/28/2008 04:59 PM -----



"Alex J. Sagady &  
Associates"

<ajs@sagady.com>

08/28/2008 02:40 PM

To

Subject Question about Ohio SIP

Kaushal,

I have a question....

This Ohio approved SIP regulation ....

=====

<http://yosemite.epa.gov/r5/newsip.nsf/495a296c1716ccc386256fb100622583/f061cfbb8e5a16a08625645900606184!OpenDocument&Highlight=0,nuisance>  
State Implementation Plans

State of Ohio Main Heading: 3745-15 General Provisions

Subheading: 3745-15-07 Nuisance Provision

Item Subpart: Nuisance

Citations & Dates :

State SIP Citation#: 3745-15-07

State Effective Date: 05/17/1982

Federal SIP Citation#: 3745-15-07

Federal Effective Date: 10/12/1984

Federal Register Citation#: 49 FR 32182

Federal Register Publication Date: 08/13/1984

Regulatory Text:

(A) Except as provided in paragraph (B) of this rule, the emission or escape into the open air from any source or sources whatsoever, of smoke, ashes, dust, dirt, grime, acids, fumes, gases, vapors, odors, or any other substances or combinations of substances, in such manner or in such amounts as to endanger the health, safety or welfare of the public, or cause unreasonable injury or damage to property, is hereby found and declared to be a public nuisance. It shall be unlawful for any person to cause, permit or maintain any such public nuisance.

(B) Those sources of odors not subject to regulation under Chapter 3745-17, 3745-18, 3745-21 or 3745-31 of the Administrative Code shall not be subject to this rule.

Effective: May 17, 1982

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While EPA's SIP site still shows this as part of the SIP, wasn't there a round of rulemakings throughout region 5 to remove these state nuisance provisions from all CAA State SIPs?

Thanks for any insight on this.

Regards,

Alex Sagady  
Environmental Consultant

=====

Alex J. Sagady & Associates                      <http://www.sagady.com>

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Expert Witness Review and Litigation Investigation on Air, Water and  
Waste/Community Environmental and Resource Protection  
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=====